

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL JACKSON

Plaintiff,

v.

**TRUMP ENTERTAINMENT
RESORTS, INC. et al.**

Defendants.:

CIVIL ACTION NO. 13-1605

JURY TRIAL DEMANDED

AFFIDAVIT OF JAMES M. DUTTERA

I, James M. Duttera, make the following Affidavit in support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment in the above-captioned matter:

1. I am an attorney at Console Law Offices, LLC, and have worked on this case.
2. I make this Affidavit upon my personal knowledge and a review of the file in this case.
3. Attached hereto as Exhibit A is a true and correct copy of Michael T. Jackson's deposition transcript dated May 19, 2014.
4. Attached hereto as Exhibit B is a true and correct copy of Karen Lew's deposition transcript dated May 21, 2014.
5. Attached hereto as Exhibit C is a true and correct copy of Donald Robert Browne's videotaped videoconference deposition transcript dated June 30, 2014.

6. Attached hereto as Exhibit D is a true and correct copy of Thomas M. Pohlman's deposition transcript dated March 17, 2015.

7. Attached hereto as Exhibit N is a true and correct copy of the Marina Games Dept Termed 5/24/11 including benefits eligibility chart which was produced in litigation as bates numbers Jackson-Trump 000663-000666.

8. I have used the date of birth information in Exhibit N to create the following chart of Dual-Rate Supervisors immediately prior to the takeover, with an indication as to who was selected for termination, arranged from youngest to oldest:

Name	DOB	Age as of 5/24/12	Retained After May 25, 2011
Ona, Vincent	4/2/81	31.14	
Rayo Prado, Hector	11/14/80	31.52	
Leggett, Taraysha	11/2/73	38.56	
Taclan, Edna	11/29/71	40.48	
Burkley, Karen	4/7/71	41.13	
Deery, Laura	2/1/71	41.31	
Trinidad, Restituto	2/26/70	42.24	
Licon, Evelyn	10/26/69	42.58	
Caruso, Christopher	9/14/68	43.69	
Baskarian, Jesurajian	5/29/68	43.99	
Sharpe, Inga	3/5/68	44.22	
Walia, Tejinder	10/3/67	44.64	
Santora Nargi, Georgina	2/5/66	46.30	No
Serrano, Alexis	11/8/65	46.54	
Ho Quyne	11/6/65	46.55	
Giuffrida, Linda	8/6/65	46.80	
Sawyer, Mace	3/30/65	47.15	
Stephens, Sharon	1/21/65	47.34	
Lee, Sila	9/21/64	47.67	
Vega, Gilbert	7/16/64	47.85	
Maruca, Joseph	3/24/64	48.17	
Monacello, Judy	1/28/64	48.32	
Giuffrida, Giuseppe	1/15/64	48.36	

Sloan, William	12/22/63	48.42	
Surti, Dipak	10/30/63	48.57	
Nargi, Alexander	10/22/63	48.59	
Batten, Aide	8/30/63	48.73	
Lin, Yuk	10/29/62	49.57	
Naclerio, Frank	10/3/62	49.64	
Greck, David	4/13/62	50.11	
Bransfield, Kim	10/5/61	50.63	No
Carusi, Lynn	9/15/61	50.69	
Catalioti, Rosario	8/30/61	50.73	
Flynn, Josephine	12/21/60	51.42	
Colledge, Lynn	12/8/60	51.46	
Taclan, Elbert	9/20/60	51.67	
Mcilmail, Cynthia	3/14/60	52.19	
Rinaldi, Rita	2/24/60	52.25	
Sparacio, Cynthia	11/28/59	52.49	
Durham, Kneeland	9/9/59	52.71	
Ramos, Victorio	8/21/59	52.76	
Grueso, Delmer	7/31/59	52.82	
Udoh, Emmanuel	7/28/59	52.82	No
Quach, Nguyen	6/29/59	52.90	
Farrell, Frank	10/18/58	53.60	
Schulz, Frederick	3/27/58	54.16	
Johnson, Gary	1/3/58	54.39	No
Trenard, Jean	11/20/57	54.51	
Malhotra, Anil	8/13/57	54.78	
Ricciardi, Curtis	1/26/57	55.32	No
Montgomery, Robert	4/19/55	57.10	No
Mills, Richard	11/23/54	57.50	
Defeo, Donald	1/18/54	58.35	
Gullone, Thomas	1/2/54	58.39	
Kong, Kam	12/15/53	58.44	
Jackson, Michael	11/18/53	58.51	No
Bruccoleri, Jonathan	6/6/53	58.97	No
Rutledge, Francine	11/7/51	60.54	No
Boyle, Russell	8/8/50	61.79	
Han, Hi	5/25/50	62.00	
Arshad, Mohammad	1/11/49	63.36	
Alosi, Anthony	1/17/47	65.35	No
Salcfas, Maurice	2/7/37	75.29	

9. Attached hereto as Exhibit E is a true and correct copy of the 2010 – Casino Supervisor Employee Performance Evaluation for Michael Jackson which was produced in litigation as bates numbers Trump-Jackson 00208—000209 and previously marked as deposition exhibit P-6.

10. Attached hereto as Exhibit F is a true and correct copy of the 2011 – Casino Supervisor Employee Performance Evaluation for Michael Jackson which was produced in litigation as bates numbers Trump-Jackson 000210-000211 and previously marked as deposition exhibit P-7.

11. Attached hereto as Exhibit G is a true and correct copy of cited excerpts of the transcript of George Wilson’s deposition.

12. Attached hereto as Exhibit H is a true and correct copy of a portion of the Equal Employment Opportunity Commission’s file on Plaintiff’s Charges, received in response to a Freedom Of Information Act request, produced in this litigation as Jackson – Foia 1004-5.

13. Attached hereto as Exhibit I is a true and correct copy of a document produced by the Trump Marina in this case, titled “Marina Games Hours for 2011” which was Bates-stamped as Jackson-Trump 000652-662 and was previously marked as deposition exhibit P-3.

14. Attached hereto as Exhibit J is a true and correct copy of the Second Charge of Discrimination and Retaliation that Michael Jackson filed with the EEOC which was produced in litigation as bates numbers Jackson-FOIA 1029-1031.

15. Attached hereto as Exhibit K is a true and correct copy of the "Request for Employment Accommodation" form for Michael Jackson which was produced in litigation as Bates numbers Jackson 1001-1020 and was previously marked as deposition exhibit Jackson 3.

16. Attached hereto as Exhibit L is a true and correct copy of a document produced by the Trump Marina in this case, titled "GNAC Reductions in May 2011" which was produced in litigation as Bates numbers Trump-Jackson 000646-000650 and was previously marked as deposition exhibit P-4.

17. Attached hereto as Exhibit M is a true and correct copy of cited excerpts of the transcript of Barbara Hulsizer's deposition.

18. Attached hereto as Exhibit O are a true and correct copies of the 2010 and 2011 Casino Supervisor Employee Performance Evaluations for Curtis Riccardi, which were produced in litigation as bates numbers Trump-Jackson 0001179-80 and 001043-001044, respectively.

19. Attached hereto as Exhibit P is a true and correct copy of the 2010 and 2011 Casino Supervisor Employee Performance Evaluations for Anthony Alosi which were produced in litigation as bates numbers Trump-Jackson 001234-001235 and 001099-1100, respectively.

20. Attached hereto as Exhibit Q is a true and correct copy of the 2010 – Casino Supervisor Employee Performance Evaluation for Georgina Nargi which was produced in litigation as bates numbers Trump-Jackson 001037-001038.

21. Attached hereto as Exhibit R is a true and correct copy of the 2010 and 2011 Casino Supervisor Employee Performance Evaluations for Jonathan Bruccoleri

which were produced in litigation as bates numbers Trump-Jackson 001228-1229 and 001093-1094, respectively.

22. Attached hereto as Exhibit S is a true and correct copy of the 2010 and 2011 Casino Supervisor Employee Performance Evaluations for Fran Rutledge which was produced in litigation as bates numbers Trump-Jackson 001126-1127 and 000990-991, respectively.

23. Attached hereto as Exhibit T is a true and correct copy of the 2010 Casino Supervisor Employee Performance Evaluation for Robert Montgomery which was produced in litigation as bates numbers Trump-Jackson 001054-1055.

24. Attached hereto as Exhibit U is a true and correct copy of the 2011 Casino Supervisor Employee Performance Evaluation for Mace Sawyer which was produced in litigation as bates numbers Trump-Jackson 001124-1125.

25. The Trump Marina, and its former owners and operators, prior to their bankruptcy and dismissal from this case, produced all 2011 and 2010 "Employee Performance Evaluations" for the sixty-three Dual Rate Casino Supervisors such as Mr. Jackson. The 2011 evaluations were produced as Trump-Jackson 001104-1235. I have reviewed all of these evaluations and can make the following summaries. These evaluations are all available for the Court's review upon request.


a. In the section titled "Customer Service," only four (4) employees were rated as "Exceeds Expectations" on more than five of the eight components. Four (4) employees, including Mr. Jackson, were rated as "Exceeds Expectations" on five of the components. The remaining fifty-five (55) Dual-Rate Supervisors were rated as "Exceeds Expectations" on less than four of the "Customer Service" components.

b. As seen in Exhibit F, Mr. Jackson had an overall score of sixty (60) on his 2011 evaluation. He was one of twelve (12) Dual-Rate Supervisors who had an overall score of sixty. Seventeen (17) other employees had a score lower than sixty.

I hereby certify under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Dated:

6/22/15


James M. Duttera